

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

NETLIST, INC.,	)	
	)	
Plaintiff,	)	
	)	Case No. 2:22-CV-203-JRG
vs.	)	
	)	JURY TRIAL DEMANDED
MICRON TECHNOLOGY, INC.,	)	
MICRON SEMICONDUCTOR	)	
PRODUCTS INC., MICRON	)	
TECHNOLOGY TEXAS LLC,	)	
	)	
Defendants.	)	

---

**PLAINTIFF NETLIST, INC.'S MOTION FOR LEAVE TO FILE MOTION  
TO STRIKE SUPPLEMENTAL EXPERT REPORT OF MATTHEW R.  
LYNDE**

Pursuant to Local Rule CV-7(k), Plaintiff Netlist, Inc. (“Netlist”) respectfully seeks leave of the Court to file a motion to strike the supplemental expert report of Micron’s damages expert, Dr. Matthew Lynde. The motion to strike will be filed immediately after the immediate motion for leave is filed.

Netlist seeks leave because the Docket Control Order in this case states that “No motion to strike expert testimony (including a *Daubert* motion) may be filed after [November 14, 2023] without leave of the Court.” Dkt. 243 at 3.

Netlist served the Second Supplemental Report of Mr. Kennedy on January 23, 2024. The parties agreed, and the Court ordered, that Micron “may serve a supplemental rebuttal report limited to rebutting Mr. Kennedy’s opinions in the ‘Second Supplemental Report.’” Dkt. 460. Micron served Dr. Lynde’s supplemental report on January 31, 2024. As explained in the motion to strike, Dr. Lynde’s supplemental report relies on previously undisclosed information and attempts to reintroduce already-stricken opinions. These statements are highly prejudicial and should be stricken (and in some cases stricken again) from Dr. Lynde’s report. Netlist could not have brought this motion to strike sooner, as Dr. Lynde only served his report on January 31, 2024.

Accordingly, Netlist respectfully requests that the Court grant Netlist leave to file its motion to strike.

Dated: February 8, 2024

Respectfully submitted,

/s/ Jason G. Sheasby

Samuel F. Baxter

Texas State Bar No. 01938000

[sbaxter@mckoolsmith.com](mailto:sbaxter@mckoolsmith.com)

Jennifer L. Truelove

Texas State Bar No. 24012906

[jtruelove@mckoolsmith.com](mailto:jtruelove@mckoolsmith.com)

**MCKOOL SMITH, P.C.**

104 East Houston Street Suite 300

---

Marshall, TX 75670  
Telephone: (903) 923-9000  
Facsimile: (903) 923-9099

Jason G. Sheasby (*pro hac vice*)  
jsheasby@irell.com  
Annita Zhong, Ph.D. (*pro hac vice*)  
hzhong@irell.com  
Andrew J. Strabone (*pro hac vice*)  
astrabone@irell.com  
Thomas C. Werner (*pro hac vice*)  
twerner@irell.com  
Yanan Zhao (*pro hac vice*)  
yzhao@irell.com  
Michael W. Tezyan (*pro hac vice*)  
mtezyan@irell.com

**IRELL & MANELLA LLP**  
1800 Avenue of the Stars, Suite 900  
Los Angeles, CA 90067  
Tel. (310) 277-1010  
Fax (310) 203-7199

*Attorneys for Plaintiff Netlist, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that, on February 8, 2024, a copy of the foregoing was served to all counsel of record via Email as agreed by the parties.

/s/ Yanan Zhao  
Yanan Zhao

**CERTIFICATE OF CONFERENCE**

I hereby certify that, on February 7, 2024, counsel for Netlist met and conferred with Micron's counsel regarding the subject matter of Netlist's motion. Micron opposes Netlist's motion.

/s/ Yanan Zhao  
Yanan Zhao